**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE KURIAN JOSEPH**

**TUESDAY, THE 20TH FEBRUARY 2007 / 1ST PHALGUNA 1928**

**OP.No. 33032 of 2002(G)**
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**PETITIONER:**
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**THULASEEDHARAN, KIZHAKKEVILA VEEDU,**
**VAZHAYILA, RANNI LANE, PEROORKADA P.O.,**
**THIRUVANANTHAPURAM DISTRICT.**
**WORKED AS CONSTABLE COMMANDANT,**
**105 Bn RAF CRPF PALLIPPURAM.**

**BY ADV. SRI.PIRAPPANCODE V.SREEDHARAN NAIR**
**SRI.S.P.ARAVINDAKSHAN PILLAY**
**SRI.PIRAPPANCODE V.S.SUDHIR**
**SRI.V.VARGHESE**

**RESPONDENTS:**
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1. **UNION OF INDIA, REPRESENTED BY**
   **ITS SECRETARY, MINISTRY OF HOME,**
   **NEW DELHI.**

2. **COMMANDANT, 105 BN RAF, CRPF,**
   **PALLIPPURAM, THIRUVANANTHAPURAM.**

**BY ADV. SRI.V.V.SURESH, ADDL.CGSC**
**SMT.M.LALITHA NAIR, CGSC**

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 20/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**O.P.NO.33032/2002 G**

**ORDER ON C.M.P.NO.55832/2002 IN O.P.NO.33032/2002 G**

**DISMISSED**

**20/02/2007** **SD/-KURIAN JOSEPH, JUDGE**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P1:** **COPY OF THE CERTIFICATE ISSUED BY DR. D.RAJU, MO (GEN.MED) MD (Psych.Med) DPM, ASST.PROFESSOR IN PSYCHIATRY, MEDICAL COLLEGE HOSPITAL, THIRUVANANTHAPURAM DTD. 25/07/2000.**

**EXT.P2:** **COPY OF THE ORDER NO.D.V.-1/2000-105-EG-3 DTD. 23/10/2000 OF THE 2ND RESPONDENT.**

**EXT.P3:** **COPY OF THE RELEVANT EXTRACT OF THE SERVICE BOOK, OF THE PETITIONER.**

**EXT.P4:** **COPY OF THE OFFICE ORDER NO.B.XIII-1/2001-105-ESTT.II DTD. 4/04/2001 OF THE 2ND RESPONDENT.**

**EXT.P5:** **COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT, DTD. 7/09/2002.**

**/TRUE COPY/**

**KSS**

**KURIAN JOSEPH, J.**

**.....**

**O.P. No. 33032 OF 2002**

**.....**

**Dated this the 20th February, 2007**

**J U D G M E N T**

Writ Petition is filed with the following prayers:

> *"i) Issue a writ of certiorari or any other appropriate writ, order or direction calling for the records leading to Ext.P4 and quash the same.*
>
> *ii) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents to permit the petitioner to withdraw his resignation and to further reinstate him in service in the same post he was relieved int the CRPF, Palippuram.*
>
> *iii) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 2nd respondent to dispose of Ext.P5 representation expeditiously and within a time limit to be fixed by this Hon'ble Court. "*

2. Learned Addl. Central Government Standing Counsel, with reference to the counter affidavit, submits that the petitioner is medically unfit for service in CRPF and that Ext..P5 cannot be considered. It is also submitted that the application was not submitted within 90 days as

stipulated in CCS (Pension) Rules. Learned counsel for the petitioner submits that the application has to be submitted through proper channel before the controlling officer and the petitioner has submitted the application within time. Further submission regarding the fitness of the petitioner is that it is a matter for the respondents to consider, based on the report of the medical board. Unless the petitioner is subjected to a further examination by a competitive medical board, there is no justification in arriving at such a conclusion based on the past medical board records, it is submitted. I find that there is force in the said submission. Going by the past records regarding his physical condition, he may not be fit to continue in service. Since an application to withdraw resignation having been filed within time and the petitioner claims that he is medically fit, there is no justification in rejecting the application based on the past records, without subjecting him for a further examination by a competitive medical board.

In the above circumstances, the Original Petition is disposed of directing the second respondent to consider Ext.P5 representation with notice to the petitioner and take appropriate action in accordance with law

in the light of the observations contained in this judgment, within a period of four months from the date of production of a copy of this judgment, ignoring the order, if already passed in Ext. P5.

**KURIAN JOSEPH,**
**JUDGE.**

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**KURIAN JOSEPH, J.**

**.....**

**O.P. No. 33032 OF 2002**

**.....**

**Dated this the 20th February, 2007**

**J U D G M E N T**